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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,895	03/24/2004	Eduardo Ramirez de Arellano	LOSAS-0600	5350

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Patent Law Offices of
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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,895

Applicant(s)

RAMIREZ DE ARELLANO,
EDUARDO

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The indicated allowability of the claims is withdrawn in view of the newly discovered reference(s) to HAZARD and SEMMENS. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,883,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD. In reference to claims 1 and 8, SEMMENS discloses the method of applying concrete to a building including the steps of mixing water and concrete having grains with an approximate diameter of one millimeter, column 1, lines 49-50 and column 2, lines 23-27; applying the concrete; and allowing the concrete to dry. SEMMENS discloses the basic claimed invention except for the step of scraping a trowel to remove particles of an exterior surface of the concrete to thereby form voids therein. HAZARD teaches that it is known in the art at the time the invention was made to scrape a trowel, column 1, line 32-33, to form voids column 3, line 25 and 32. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the steps of SEMMENS with the step of using a trowel, as taught by HAZARD, in order to

Art Unit: 3635

improve adhesion of the concrete to the substrate while also preparing the surface for exterior coatings. In reference to claims 2-5 and 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known particle size suitable for the use intended as an obvious matter of design choice.

Selection of particle size is particular to the desired volume of the mixture. For instance, mixtures with smaller particle sizes provide shear to lower density. Adjusting particle size regulates densities, compression, strength, insulation values, and composition weights. Regarding claims 6,7,10, and 11, SEMMENS, teaches applying the concrete by "projection – blowing, column 4, line 41; while HAZARD teaches spreading a concrete material with a trowel. In further reference to claim 8, both SEMMENS and HAZARD teaches the step of allowing the concrete to harden.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,883,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD, as applied to claim 8 above, and further in view of US Patent #6,046,269 to NASS et al. SEMMENS, as modified by HAZARD, does not detail the use of an accelerant.

However, NASS et al. teaches that it is known in the art to provide a concrete mixture with an accelerant - propylene glycol and methyl and carbitol. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete of SEMMENS, as modified by HAZARD, with an accelerant, as taught by NASS et al. in order to speed the drying process.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,883,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD, as applied to claim 8 above, and further in view of US Patent 4,229,225 to KRASZEWSKI et al. SEMMENS, as modified by HAZARD, does not detail the use of a plasticizer. However, KRASZEWSKI et al. teaches that it is known in the art to provide the concrete of SEMMENS, as modified by HAZARD, mixture with a plasticizer - propylene glycol and methyl and carbitol. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide concrete with a plasticizer, as taught by KRASZEWSKI et al. in order to provide the concrete with the ability to repel water.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton
Art Unit 3635
8/17/05